



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0048; Notice 2]

Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Porsche Cars North America, Inc. (Porsche), has determined that certain model year (MY) 2008–2019 Porsche Cayenne and Macan motor vehicles do not comply with Federal motor vehicle safety standard (FMVSS) 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less*. Porsche filed a noncompliance report dated March 28, 2019, and subsequently petitioned NHTSA on April 20, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Porsche's petition.

FOR FURTHER INFORMATION CONTACT: Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-1110, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview:

Porsche has determined that certain MY 2008–2019 Porsche Cayenne and Macan motor vehicles do not fully comply with paragraphs S4.4.2(a) and S4.4.2 (c) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110). Porsche filed a noncompliance report dated March 28, 2019, pursuant to 49 CFR

part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently petitioned NHTSA on April 20, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Porsche's petition was published with a 30-day public comment period, on October 15, 2019, in the **Federal Register** (84 FR 55219). One comment was received but lacked relevance to the subject petition. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2019-0048."

II. Vehicles Involved:

Approximately 230,212 of the following MY 2008–2019 Porsche Cayenne and Macan motor vehicles, manufactured between June 1, 2007, and September 21, 2018, are potentially involved:

- MY 2008–2014 Porsche Cayenne;
- MY 2016–2019 Porsche Cayenne;
- MY 2017–2018 Porsche Cayenne "Platinum Edition;"
- MY 2014 Porsche Cayenne Diesel "Platinum Edition;"
- MY 2014 Porsche Cayenne "Platinum Edition;"
- MY 2013–2016 Porsche Cayenne Diesel;
- MY 2019 Porsche Cayenne E-Hybrid;
- MY 2008–2010 Porsche Cayenne GTS;
- MY 2013–2014 Porsche Cayenne GTS;
- MY 2010 Porsche Cayenne GTS "Porsche Design Edition 3;"
- MY 2008–2010 Porsche Cayenne GTS;
- MY 2016–2018 Porsche Cayenne GTS

- MY 2015–2018 Porsche Cayenne S E-Hybrid;
- MY 2011–2014 Porsche Cayenne S Hybrid;
- MY 2010 Porsche Cayenne S Transsyberia;
- MY 2008–2018 Porsche Cayenne S;
- MY 2017–2018 Porsche Cayenne S E-Hybrid “Platinum Edition;”
- MY 2008–2019 Porsche Cayenne Turbo;
- MY 2009–2010 Porsche Cayenne Turbo S;
- MY 2016–2018 Porsche Cayenne Turbo S;
- MY 2014 Porsche Cayenne Turbo S;
- MY 2015–2018 Porsche Macan Turbo;
- MY 2017–2018 Porsche Macan;
- MY 2018 Porsche Macan “Sport Edition;”
- MY 2017–2018 Porsche Macan GTS;
- MY 2015–2018 Porsche Macan S; and
- MY 2017–2018 Porsche Macan Turbo Plus Performance Package.

III. Noncompliance:

Porsche explains that the noncompliance is that the subject vehicles are equipped with rims that do not contain the required rim markings as specified in paragraph S4.4.2 of FMVSS No. 110. Specifically, the rims on the subject vehicles do not contain the designation symbol “E” as required by paragraph S4.4.2(a) of FMVSS No. 110 and the certification symbol “DOT” as required by paragraph S4.4.2(c) of FMVSS No. 110.

IV. Rule Requirements:

Paragraphs S4.4.2(a) and S4.4.2(c) of FMVSS 110, include the requirements relevant to this petition. In section S4.4.2(a), each rim or, at the option of the manufacturer in the case of a single-piece wheel, each wheel disc shall be marked with the designation that indicates the source of the rim’s published nominal dimensions. Specifically, the noncompliant rims should

have been marked with the letter “E” indicating the European Tire and Rim Technical Organization as the source of nominal dimensions. Section S4.4.2(c) requires each wheel disk to be marked with the symbol “DOT,” constituting a certification of compliance with all applicable FMVSS.

V. Summary of Porsche’s Petition:

Porsche described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Porsche submitted the following reasoning:

1. With respect to FMVSS No. 110, paragraph S4.4.2(c), the DOT marking signifies that the manufacturer of the rim has certified that the rim complies with all applicable FMVSSs. Porsche asserts that because the DOT marking is a “certification,” it is a violation of 49 U.S.C. 30115 (“Certification”), which does not require notification or remedy. Porsche asserts that this is consistent with NHTSA’s prior decision on petitions for the same issue. (*See* Volvo Cars of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 74 FR 69376, December 31, 2009).
2. With respect to FMVSS No. 110, paragraph S4.4.2 (a), Porsche believes that the omission of the designation symbol “E” will not prevent the proper matching of tires and rims because sufficient information about rim size is available from other markings on the rim and the corresponding owner’s manual instructions. More specifically, Porsche states, the rims are marked correctly with the size designation; the correct tire size information is listed on the Tire and Loading Information placard, and the tire size is marked on the tire sidewall. The vehicles’ Certification label also contains the correct tire and rim sizes. Porsche indicates that, importantly, the omitted marking does not affect the ability to identify the rims in the event of a recall and is not

likely to have any effect on motor vehicle safety. Porsche asserts that this is again consistent with NHTSA's prior decision on petitions for the same. (*See* 74 FR 69376).

3. The tire and rim of the affected spare wheels are properly matched and are appropriate for the load-carrying characteristics of the subject vehicle.

Porsche asserts that the incorrect association marking has no effect on the performance of the tire/rim combination.

4. The subject tire/rim assembly meets paragraph S4.4.1(b) rapid air loss requirement of FMVSS No. 110. All other applicable requirements of FMVSS Nos. 109 and 110 have been met.
5. Lastly, Porsche is unaware of any accidents, injuries, or customer complaints related to the omitted markings.

Porsche concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

Porsche's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

VI. Comments:

NHTSA received one comment from the general public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

VII. NHTSA's Analysis:

The intent of the labeling requirements in paragraphs 4.4.2(a) and S4.4.2(c) of FMVSS No. 110 is to provide safe operation of vehicles by ensuring that vehicles are equipped with rims of appropriate size and type designation mounted with compatible tires of appropriate size and load rating. The purpose of the “DOT” marking is to certify compliance with all applicable standards. The “DOT” certification is also itself a requirement of the standard, 49 CFR 571.110, S.4.4.2(c). However, NHTSA finds that the noncompliance with the “DOT” marking requirement is inconsequential in this situation, given Porsche’s representation that the vehicles comply with the standard, other than as discussed herein, and given that the vehicles have a vehicle-level certification of compliance. *See* 49 U.S.C. 30115; 49 CFR 567.4.

Furthermore, while manufacturers are required to include the designation symbol required by S4.4.2(a), its omission does not prevent the proper matching of tires and rims in this unique situation because sufficient information about rim size is available from other markings on the rims, as well as information available from the certification label required by 49 CFR Part 567 and the vehicle placard (tire information label) required by FMVSS No. 110 that are present on the affected vehicles. In addition, the omitted marking does not affect the ability to identify the rims in the event of recall and is not likely to have a consequential effect on motor vehicle safety.

NHTSA’s Decision:

In consideration of the foregoing, NHTSA has decided that Porsche has met its burden of persuasion that the failure to mark the wheels with the letter “E” as the source of wheel nominal dimensions, as required by paragraph S4.4.2(a), and the symbol “DOT” for recognizing certification to all applicable FMVSSs, are inconsequential to motor vehicle safety.

Accordingly, Porsche’s petition is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Porsche notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

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Director, Office of Vehicle Safety Compliance.

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